

ORDER BELOW EXH. 35 IN R. C. S. NO. 101/2016.

(CNR : MHAH23-000214-2016)

1. The present application moved by the defendant No. 1 for setting-aside "No Additional W.S." order passed against him. Say of plaintiffs is called. They have filed their say and objected the application.

2. As per the contention of the defendant No. 1, he has filed his written statement and he ought to have filed his additional written statement within stipulated period, however, for want of documents and information in respect of Vahivat rasta and measurement map he could not file his additional written statement. It is his further contention that considering above reason his application may be allowed.

3. On the other hand, it is argued on behalf of the plaintiffs that application filed by the defendant No. 1 is not legal and proper. It is further argued that defendant No. 1 has purposely delayed to file his additional W.S. It is further argued that defendant No. 1 has not given any specific reason for the delay. It is argued that application may be rejected and if application is allowed cost may be imposed on defendant No. 1.

4. By considering the rival allegations by the parties, following points arises for my determination to which I record findings for the reasons stated thereunder :-

S.N.	POINTS	FINDINGS
1	Does defendant No. 1 prove that there is sufficient cause for not filing additional written-statement within time ?	...In the Affirmative

2 What order ?

....As per final
order

REASONS

AS TO POINT NO.1 :-

5. Perused application, say and record of the case. Heard both the parties. On perusing record, it appears that plaintiffs have made an amendment in plaint during pendency of suit and they have filed their amended copy on record and same is received by defendant No. 1 on 10/10/2018. It appears that defendant No. 1 has filed present application on 16/07/2019 along with affidavit at Exh. 36 to set aside no additional W.S. order dated 18/02/2019. It is pertinent to note that defendant No.1 has given reason that for want of information he could not file his additional written statement. Further, it appears that defendant No.1 has filed application after five months after passing order. On perusing record, it appears that considering the reason it is necessary to give an opportunity to the defendant No. 1 to file his additional written-statement. However, at the same time inconvenience caused to the plaintiffs needs to be consider by imposing cost on the defendant No. 1. Therefore, point No. 1 is answered in affirmative and in answer to point No. 2, I proceed to pass following order.

ORDER

- 1 The application (Exh. 35) is hereby allowed on payment of costs of Rs. 500/- to the plaintiffs.
- 2 The defendant No. 1 is further directed to pay the cost on or before next date to the plaintiffs.

Shrigonda.
Date : 23/09/2019.

(Sangram S. Shinde)
Civil Judge, Senior Division,
Shrigonda.